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1 AMENDMENT TO HOUSE BILL 4338

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4338 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Clean Indoor Air Act is amended by  
5 changing Sections 1, 2, 3, 4, 6, 7, 8, 9, 10, and 11 and by  
6 adding Sections 4.5, 12, and 13 as follows:

7 (410 ILCS 80/1) (from Ch. 111 1/2, par. 8201)

8 Sec. 1. Short title. This Act shall be known and may be  
9 cited as the "Illinois Clean Indoor Air Act".

10 (Source: P.A. 86-1018.)

11 (410 ILCS 80/2) (from Ch. 111 1/2, par. 8202)

12 Sec. 2. Legislative findings. The General Assembly finds  
13 that tobacco smoke is a harmful and dangerous carcinogen to  
14 human beings and a hazard to workers' ~~public~~ health. Secondhand  
15 tobacco smoke causes at least 65,000 deaths each year from  
16 heart disease and lung cancer according to the National Cancer  
17 Institute. Secondhand tobacco smoke causes heart disease,  
18 stroke, cancer, sudden infant death syndrome, low-birth-weight  
19 in infants, asthma and exacerbation of asthma, bronchitis, and  
20 pneumonia in children and adults. Secondhand tobacco smoke is  
21 the third leading cause of preventable death in the United  
22 States. Illinois workers exposed to secondhand tobacco smoke  
23 are at increased risk of premature death. An estimated 2,900

1 ~~1,570~~ Illinois citizens die each year from exposure to  
2 secondhand tobacco smoke. The United States Surgeon General has  
3 determined that the simple separation of smokers and nonsmokers  
4 within the same air space may reduce, but does not eliminate,  
5 the exposure of nonsmokers to secondhand smoke. The  
6 Environmental Protection Agency has determined that secondhand  
7 smoke cannot be reduced to safe levels in business by high  
8 rates of ventilation. Air cleaners, which are only capable of  
9 filtering the particulate matter and odors in smoke, do not  
10 eliminate the known toxins in secondhand smoke. The American  
11 Society of Heating, Refrigerating, and Air-Conditioning  
12 Engineers (ASHRAE) bases its ventilation standards on totally  
13 smoke-free environments because it cannot determine a safe  
14 level of exposure to secondhand smoke, which contains  
15 cancer-causing chemicals, and ASHRAE acknowledges that  
16 technology does not exist that can remove chemicals that cause  
17 cancer from the air. A recently promulgated ASHRAE position  
18 document on secondhand smoke concludes that, at present, the  
19 only means of eliminating health risks associated with indoor  
20 exposure is to eliminate all smoking activity indoors.

21 (Source: P.A. 94-517, eff. 1-1-06.)

22 (410 ILCS 80/3) (from Ch. 111 1/2, par. 8203)

23 Sec. 3. Definitions. For the purposes of this Act, the  
24 following terms have the meanings ascribed to them in this  
25 Section unless different meanings are plainly indicated by the  
26 context:

27 (a) "Department" means the Department of Public Health.

28 (b) (Blank). ~~"Proprietor" means any individual or his~~  
29 ~~designated agent who by virtue of his office, position,~~  
30 ~~authority, or duties has legal or administrative~~  
31 ~~responsibility for the use or operation of property.~~

32 (c) "Public place ~~Place~~" means any enclosed area to which  
33 the public is invited or in which the public is permitted,

1 including, without limitation, banks, bars, educational  
2 facilities, enclosed or semi-enclosed sports arenas,  
3 government buildings, health care facilities, laundromats,  
4 museums, public transportation facilities, reception areas,  
5 recreational areas, restaurants, retail food production and  
6 marketing establishments, retail service establishments,  
7 retail stores, shopping malls, sports arenas, theaters, and  
8 waiting rooms. "Public place" includes members-only clubs or  
9 associations. ~~indoor area used by the public or serving as a~~  
10 ~~place of work including, but not limited to, hospitals,~~  
11 ~~restaurants, retail stores, offices, commercial~~  
12 ~~establishments, elevators, indoor theaters, libraries, art~~  
13 ~~museums, concert halls, public conveyances, educational~~  
14 ~~facilities, nursing homes, auditoriums, arenas, and meeting~~  
15 ~~rooms, but excluding bowling establishments and excluding~~  
16 ~~places whose primary business is the sale of alcoholic~~  
17 ~~beverages for consumption on the premises and excluding rooms~~  
18 ~~rented for the purpose of living quarters or sleeping or~~  
19 ~~housekeeping accommodations from a hotel, as defined in the~~  
20 ~~Hotel Operators' Occupation Tax Act, and private, enclosed~~  
21 ~~offices occupied exclusively by smokers, even though such~~  
22 ~~offices may be visited by nonsmokers.~~

23 (d) "Smoking" means ~~the act of~~ inhaling, exhaling, burning,  
24 or carrying the smoke from or possessing a lighted cigarette,  
25 cigar, pipe, weed, hookah, or other lighted cigarette tobacco  
26 product in any manner or form ~~or any other form of tobacco or~~  
27 ~~similar substance used for smoking.~~

28 (e) "State agency" has the meaning formerly ascribed to it  
29 in subsection (a) of Section 3 of the Illinois Purchasing Act  
30 (now repealed).

31 (f) "Unit of local government" has the meaning ascribed to  
32 it in Section 1 of Article VII of the Illinois Constitution of  
33 1970.

34 (g) "Bar" means an establishment that is devoted to the

1 servicing of alcoholic beverages for consumption by guests on the  
2 premises and in which the serving of food is only incidental to  
3 the consumption of those beverages. "Bar" includes, but is not  
4 limited to, taverns, nightclubs, cocktail lounges, and  
5 cabarets.

6 (h) "Business" means a sole proprietorship, joint venture,  
7 corporation, or other business entity, either for-profit or  
8 not-for-profit, including (i) retail establishments where  
9 goods or services are sold; (ii) professional corporations and  
10 other entities where legal, medical, dental, engineering,  
11 architectural, or other professional services are delivered;  
12 and (iii) private clubs.

13 (i) "Employee" means a person who is employed by an  
14 employer in consideration for direct or indirect monetary wages  
15 or profit or a person who volunteers his or her services for a  
16 non-profit entity.

17 (j) "Employer" means a person, business, partnership,  
18 association, or corporation, including a municipal  
19 corporation, trust, or non-profit entity, that employs the  
20 services of one or more individual persons.

21 (k) "Enclosed area" means all space between a floor and a  
22 ceiling that is enclosed or semi-enclosed with (i) solid walls  
23 or windows, exclusive of doorways, or (ii) solid walls with  
24 half wall partitions and no windows, exclusive of doorways,  
25 that extend from the floor to the ceiling, including, without  
26 limitation, lobbies and corridors.

27 (l) "Enclosed or semi-enclosed sports arena" or  
28 "recreational area" means any sports pavilion, stadium,  
29 gymnasium, health spa, boxing arena, swimming pool, roller and  
30 ice rink, bowling alley, or other similar place where members  
31 of the general public assemble to engage in physical exercise  
32 or participate in athletic competition or recreational  
33 activity or to witness sports, cultural, recreational, or other  
34 events.

1       (m) "Health care facility" means an office or institution  
2 providing care or treatment of diseases, whether physical,  
3 mental, or emotional, or other medical, physiological, or  
4 psychological conditions, including, but not limited to,  
5 hospitals, rehabilitation hospitals, weight control clinics,  
6 nursing homes, homes for the aging or chronically ill,  
7 laboratories, and offices of surgeons, chiropractors, physical  
8 therapists, physicians, dentists, and all specialists within  
9 these professions. "Health care facility" includes all waiting  
10 rooms, hallways, private rooms, semiprivate rooms, and wards  
11 within health care facilities.

12       (n) "Place of employment" means an area under the control  
13 of a public or private employer that employees normally  
14 frequent during the course of employment, including, but not  
15 limited to, work areas, employee lounges, restrooms,  
16 conference rooms, meeting rooms, classrooms, employee  
17 cafeterias, hallways, and vehicles.

18       (o) "Restaurant" means (i) an eating establishment,  
19 including, but not limited to, coffee shops, cafeterias,  
20 sandwich stands, and private and public school cafeterias, that  
21 gives or offers for sale food to the public, guests, or  
22 employees, and (ii) kitchens and catering facilities in which  
23 food is prepared on the premises for serving elsewhere.  
24 "Restaurant" includes a bar area within the restaurant.

25       (p) "Retail tobacco store" means any retail store utilized  
26 primarily for the sale of tobacco products and accessories (i)  
27 in which the sale of other products is merely incidental, (ii)  
28 that does not hold a food service establishment license or  
29 liquor license, and (iii) where no one under 18 years of age is  
30 permitted.

31 (Source: P.A. 92-651, eff. 7-11-02.)

32 (410 ILCS 80/4) (from Ch. 111 1/2, par. 8204)

33 Sec. 4. Smoking in public places, places of employment, and

1 State-owned vehicles prohibited. No person shall smoke in a  
2 public place or place of employment or within 15 feet of any  
3 entrance to a public place or place of employment. No person  
4 shall smoke in any vehicle owned, leased, or operated by the  
5 State or a political subdivision of the State. ~~except in that~~  
6 ~~portion of a public place which may be established and posted~~  
7 ~~under Section 5 as a smoking area. This prohibition does not~~  
8 ~~apply in cases in which an entire room or hall is used for a~~  
9 ~~private social function and seating arrangements are under the~~  
10 ~~control of the sponsor of the function and not of the~~  
11 ~~proprietor or person in charge of the place. Furthermore, this~~  
12 ~~prohibition shall not apply to factories, warehouses and~~  
13 ~~similar places of work not usually frequented by the general~~  
14 ~~public.~~

15 (Source: P.A. 86-1018.)

16 (410 ILCS 80/4.5 new)

17 Sec. 4.5. Posting of signs; removal of ashtrays.

18 (a) "No Smoking" signs or the international "No Smoking"  
19 symbol, consisting of a pictorial representation of a burning  
20 cigarette enclosed in a red circle with a red bar across it,  
21 shall be clearly and conspicuously posted in each public place  
22 and place of employment where smoking is prohibited by this Act  
23 by the owner, operator, manager, or other person in control of  
24 that place.

25 (b) Each public place and place of employment where smoking  
26 is prohibited by this Act shall have posted at every entrance a  
27 conspicuous sign clearly stating that smoking is prohibited.

28 (c) All ashtrays shall be removed from any area where  
29 smoking is prohibited by this Act by the owner, operator,  
30 manager, or other person having control of the area.

31 (410 ILCS 80/6) (from Ch. 111 1/2, par. 8206)

32 Sec. 6. Enforcement; complaints.

1       (a) The Department, State certified local public health  
2 departments, and local law enforcement agencies shall enforce  
3 the provisions of this Act and may assess fines pursuant to  
4 Section 7 of this Act. ~~The State or unit of local government or~~  
5 ~~school district official or their designee or a proprietor and~~  
6 ~~his agents in control of a place which includes a public place~~  
7 ~~shall make reasonable efforts to prevent smoking in the public~~  
8 ~~place outside established smoking areas by posting appropriate~~  
9 ~~signs or contacting a law enforcement officer, or other~~  
10 ~~appropriate means.~~

11       (b) Any person may register a complaint with the  
12 Department, a State certified local public health department,  
13 or a local law enforcement agency for a violation of this Act.  
14 The Department shall establish a telephone number that any  
15 person may call to register a complaint under this subsection  
16 (b).

17 (Source: P.A. 86-1018.)

18 (410 ILCS 80/7) (from Ch. 111 1/2, par. 8207)

19 Sec. 7. Violations.

20       (a) A person, corporation, partnership, association or  
21 other entity, who violates Section 4 of this Act shall be fined  
22 pursuant to this Section is guilty of a petty offense. Each day  
23 that a violation occurs is a separate violation.

24       (b) A person who smokes in an area where smoking is  
25 prohibited under Section 4 of this Act shall be fined in an  
26 amount that is not less than \$100 and not more than \$500. A  
27 person who owns, operates, or otherwise controls a public place  
28 or place of employment that violates Section 4 of this Act  
29 shall be fined (i) not more than \$250 for the first violation,  
30 (ii) not more than \$500 for the second violation within one  
31 year after the first violation, and (iii) not more than \$2,500  
32 for each additional violation within one year after the first  
33 violation and shall receive a 60-day suspension or a revocation

1 of any permit or license issued to the person, corporation,  
2 partnership, association, or other entity for the premises at  
3 which the violation occurred.

4 (c) A fine imposed under this Section shall be allocated as  
5 follows:

6 (1) one-half of the fine shall be distributed to the  
7 Department; and

8 (2) one-half of the fine shall be distributed to the  
9 enforcing agency.

10 (Source: P.A. 86-1018.)

11 (410 ILCS 80/8) (from Ch. 111 1/2, par. 8208)

12 Sec. 8. Injunctions. The Department, a local board of  
13 health, local law enforcement agency, or any individual  
14 personally affected by repeated violations may institute, in a  
15 circuit court, an action to enjoin violations of this Act.

16 (Source: P.A. 86-1018.)

17 (410 ILCS 80/9) (from Ch. 111 1/2, par. 8209)

18 Sec. 9. Discrimination prohibited. No individual may be  
19 discriminated against in any manner because of the exercise of  
20 any rights afforded by this Act.

21 (Source: P.A. 86-1018.)

22 (410 ILCS 80/10) (from Ch. 111 1/2, par. 8210)

23 Sec. 10. Severability. If any provision, clause or  
24 paragraph of this Act shall be held invalid by a court of  
25 competent jurisdiction, such validity shall not affect the  
26 other provisions of this Act.

27 (Source: P.A. 86-1018.)

28 (410 ILCS 80/11) (from Ch. 111 1/2, par. 8211)

29 Sec. 11. Local government regulation of smoking. ~~Home rule.~~

30 (a) ~~A~~ Except as provided in subsection (b), a home rule

1 unit of local government or any municipality or county in this  
2 State may regulate smoking in public places and places of  
3 employment, but that regulation must be no less restrictive  
4 than this Act. This subsection (a) is a limitation on the  
5 concurrent exercise of home rule power under subsection (i) of  
6 Section 6 of Article VII of the Illinois Constitution.

7 (b) (Blank) ~~Any home rule unit that has passed an ordinance~~  
8 ~~concerning the regulation of smoking prior to October 1, 1989~~  
9 ~~is exempt from the requirements of subsection (a).~~

10 (Source: P.A. 94-517, eff. 1-1-06.)

11 (410 ILCS 80/12 new)

12 Sec. 12. Exemption from Act. The following are exempt from  
13 the requirements of this Act:

14 (1) Municipalities with a population greater than  
15 500,000.

16 (2) Private residences, except when used as a licensed  
17 childcare facility, adult care facility, health care  
18 facility, or a home-based business of any kind open to the  
19 public.

20 (3) Hotel and motel sleeping rooms that are rented to  
21 guests and are designated as smoking rooms, except that not  
22 more than 25% of the rooms rented to guests in a hotel or  
23 motel may be designated as smoking rooms.

24 (4) Retail tobacco stores, if smoke from the retail  
25 tobacco store does not infiltrate into areas where smoking  
26 is prohibited under the provisions of this Act.

27 (410 ILCS 80/13 new)

28 Sec. 13. Rules. The Department shall adopt rules necessary  
29 for the administration of this Act.

30 (410 ILCS 80/5 rep.)

31 Section 10. The Illinois Clean Indoor Air Act is amended by

1       repealing Section 5.

2               Section 99. Effective date. This Act takes effect January  
3       15, 2007.".